



File

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

Certified Mail
Return Receipt Requested

JUN 19 2014

Mr. Ralph M. Packer, Jr., President
Tisbury Wharf Company, Inc.
144 Beach Road
Vineyard Haven, MA 02568

Re: Request for Information Pursuant to Sections 308(a) and 311(m) of the Clean Water Act, 33 U.S.C. §§ 1318(a) and 1321(m), Docket No. 14-308-17, Relating to SPCC Compliance under Oil Pollution Prevention Regulations

Dear Mr. Packer:

On April 1, 2014, representatives from the U.S. Environmental Protection Agency (the "EPA") inspected the Tisbury Wharf Company Inc.'s property located on Tisbury Assessor's Office Parcels #9-C-13 (138 Beach Road) and 9-C-14 (158 Beach Road), Vineyard Haven, Massachusetts ("the Facility"). The EPA, among other things, reviewed the Facility's oil storage and transfer operations under the EPA's Oil Pollution Prevention Regulations and specifically the requirement for the development and implementation of a Spill Prevention, Control, and Countermeasure Plan ("SPCC") at 40 C.F.R. Part 112 promulgated under Section 311 of the Clean Water Act ("CWA"), 33 U.S.C. § 1321.

Tisbury Wharf Company is the owner and/or operator of a non-transportation related facility engaged in storing, distributing, and consuming oil or oil products that could reasonably be expected to discharge oil in quantities that may be harmful, as defined in 40 C.F.R. § 110.3, to navigable waters of the United States, and, as such, is subject to the SPCC regulations at 40 C.F.R. Part 112. Based on information collected by EPA during the inspection, the Facility did not have a SPCC Plan.

Sections 308(a) and 311(m) of the CWA, 33 U.S.C. §§ 1318(a) and 1321(m), authorize EPA to require any owner or operator of a point source to provide information needed to determine whether there has been a violation of the CWA. Tisbury Wharf Company is hereby required, within **30 calendar days of receipt of this letter**, pursuant to Sections 308(a) and 311(m) of the CWA, to respond to the questions in Attachment A to this Request

for Information (the "Request"). Please answer each question in Attachment A as clearly and completely as possible.

Your responses to this Request must also be accompanied by a certification that is signed and dated by the person who is authorized to respond to the Request. The Statement of Certification is attached to this letter as Attachment B. Information submitted pursuant to this Request shall be sent by certified mail, and shall be addressed as follows:

United States Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912
Attention: Joseph Canzano, P.E.
Water Enforcement Office, Mail Code OES04-4

Please be advised that noncompliance with the SPCC regulations constitute a violation of the CWA for which both injunctive relief and penalties can be sought. EPA reserves its right to take further enforcement action pursuant to the CWA, and other applicable laws, including the right to seek penalties, for any violations detected at the above-referenced inspection. Although subsequent compliance with the SPCC regulations does not preclude EPA from seeking penalties for violations of the CWA based on this inspection, your prompt response towards coming into full compliance will be taken into account in determining EPA's enforcement response.

Note also that compliance with this Request is mandatory. Failure to respond fully and truthfully or to adequately justify any failure to respond within the time frame specified above also constitutes a violation of the CWA subject to enforcement action, including the assessment of penalties. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal prosecution under 18 U.S.C. § 1001.

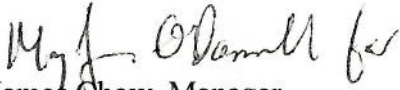
The Small Business Regulatory Enforcement and Fairness Act ("SBREFA") provides small businesses the opportunity to submit comments on regulatory enforcement at the time of an EPA enforcement action. The enclosed Information Sheet contains information regarding your rights, and describes compliance assistance that may be available to you. The Small Business Ombudsman may be reached at 1-800-368-5888. EPA routinely provides this information to businesses whether or not they qualify as small businesses as defined by the Small Business Administration. Please be aware that availing yourself of this opportunity does not relieve your facility of its responsibility to comply with applicable federal and state laws and regulations.

The company may assert a business confidentiality claim with respect to part or all of the information submitted to EPA in the manner described at 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures set forth in 40 C.F.R. § 2, Subpart B. If no such claim accompanies the

information when it is submitted to EPA, the information may be made available to the public by EPA without further notice to the companies.

If you have any technical questions regarding this Request, please contact Joseph Canzano, Regional I Oil Spill Prevention Compliance Coordinator at 617-918-1763, or have your attorney contact Toni Bandrowicz, EPA's counsel regarding this matter, at 617-918-1734.

Sincerely,


James Chow, Manager
Technical Enforcement Office
Office of Environmental Stewardship

Attachments

cc: Tonia Bandrowicz, EPA
Joseph Canzano, EPA
Erin Trainor, EPA
Lisa Thuot, EPA

Attachment A

**Tisbury Wharf Company, Inc.
144 Beach Road
Vineyard Haven, MA 02568
Docket No. 14-308-17**

General Questions Spill Prevention, Control, and Countermeasure

1. Please provide a statement detailing the actions taken by Tisbury Wharf Company, Inc. ("Tisbury Wharf") to correct the noncompliance with the Oil Pollution Prevention Regulations at 40 C.F.R. part 112 noted during the April 1, 2014 U.S. Environmental Protection Agency ("EPA") inspection of its facility located on Tisbury Assessor's Office Parcels #9-C-13 (138 Beach Road) and 9-C-14 (158 Beach Road), Vineyard Haven, Massachusetts ("the Facility").

In order to comply, Tisbury Wharf may prepare and implement an individual Spill Prevention, Control and Countermeasure ("SPCC") Plan for the Facility or amending the existing SPCC Plan for R.M. Packer Company's bulk oil storage facility located at 188-190 Beach Road, Vineyard Haven to include the Tisbury Wharf property.

2. If completion of the SPCC Plan is not feasible within 30 calendar days, submit a detailed schedule of when the SPCC Plan will be completed and fully implemented, and also include the name, address, license number, and state of licensure of the registered professional engineer (if applicable) certifying the SPCC Plan.
3. Provide an estimated or actual total cost to prepare a new SPCC Plan or amend the existing SPCC Plan for the bulk oil storage facility.
4. Submit a copy of the new SPCC Plan for Tisbury Wharf or submit amendments to the existing SPCC Plan for R.M. Packer Company's bulk oil storage facility.
5. EPA's inspectors observed three 1,000 gallon fuel-oil aboveground tanks at the Facility. Indicate, for each tank, when they were originally installed including piping to the dispenser, and age of the tanks. Also, list any changes/improvements that have been made and the date for those changes since installation, i.e., new fuel level gauges, piping, etc.
6. Submit copies of all permits issued by local authorities and or the state to Tisbury Wharf for the operation of the facility, and for the installation of the tanks.

Please note that if the facility has an aboveground oil storage capacity of 10,000 gallons or less and meets the oil discharge history criteria as described in 40 C.F.R. § 112.3(g), you are not required to obtain a professional engineer's certification for the SPCC Plan. Instead, you may self-certify the facility's SPCC Plan consistent with the requirements of 40 C.F.R. § 112.6. In this case, if compliance is achieved by amending the existing SPCC plan for R.M. Packer Company's bulk oil storage facility, then the certification must be provided by a professional engineer.

Attachment B

**Tisbury Wharf Company, Inc.
144 Beach Road
Vineyard Haven, MA 02568**

Docket No. 14-308-17

Statement of Certification

Complete and Include With Your Response

I declare under penalty of perjury that I am authorized to respond on behalf of the Tisbury Wharf Company, Inc. I certify that the foregoing responses and information submitted were prepared by me, or under my direction or supervision and that I have personal knowledge of all matters set forth in the responses and the accompanying information. I certify that the responses are true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

(Signature and Print Name)

(Title)

(Date)